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RIGHT OF PEOPLES TO SELF-DETERMINATION

Report of the Third Committee

Rapporteur: Ms. Mónica MARTÍNEZ (Ecuador)

I. INTRODUCTION

1. At its 4th plenary meeting, on 19 September 1997, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-second session the item entitled "Right of peoples to self-determination" and to allocate it to the Third Committee.

2. The Third Committee considered the item jointly with item 110 at its 27th to 29th meetings, on 6 and 7 November 1997, and took action at its 35th, 37th and 43rd meetings, on 13, 14 and 19 November 1997. An account of the Committee's discussion of the item is contained in the relevant summary records (A/C.3/52/SR.27-29, 35, 37 and 43).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the right of peoples to self-determination (A/52/485);

(b) Note by the Secretary-General transmitting the report of the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/52/495);

(c) Letter dated 7 May 1997 from the Permanent Representative of the Republic of Korea to the United Nations addressed to the Secretary-General, transmitting the results of the 97th Conference of the Inter-Parliamentary Union, held at Seoul from 10 to 15 April 1997 (A/52/139);

(d) Letter dated 15 August 1997 from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General, transmitting the text of a memorandum on the Jammu and Kashmir dispute, adopted by the Special Committee of the National Assembly of Pakistan on Kashmir (A/52/286-S/1997/647);

(e) Letter dated 23 September 1997 from the Permanent Representative of the Marshall Islands to the United Nations addressed to the Secretary-General, transmitting the communiqué of the twenty-eighth South Pacific Forum, held at Rarotonga, Cook Islands, from 17 to 19 September 1997 (A/52/413);

(f) Letter dated 1 October 1997 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General, transmitting the communiqué of the Meeting of Ministers for Foreign Affairs and Heads of Delegation of the Movement of Non-Aligned Countries held in New York on 25 September 1997 (A/52/447-S/1997/775).

4. At the 27th meeting, on 6 November, the Committee heard statements by the Special Rapporteur of the Commission on Human Rights on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, the Special Rapporteur of the Commission on Human Rights on measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Director of the New York Office of the United Nations High Commissioner for Human Rights (see A/C.3/52/SR.27).

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.3/52/L.33

5. At the 35th meeting, on 13 November, the representative of Nigeria, on behalf of Algeria, Cuba, Kenya, Liberia, Nigeria and Togo, introduced a draft resolution entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" (A/C.3/52/L.33).

6. In introducing the draft resolution, the representative of Nigeria orally revised it by replacing the words "to make proposals on a clearer legal definition of mercenaries" in operative paragraph 6 by the words "to invite Governments to make proposals towards a clearer definition of mercenaries".

7. At the 37th meeting, on 14 November, the representative of Nigeria further orally revised the draft resolution, as follows:

(a) In operative paragraph 6, the words "to invite Governments to make proposals towards a clearer definition of mercenaries and" were deleted;

(b) After operative paragraph 6, a new operative paragraph was inserted, reading:

"7. Further requests the Secretary-General to invite Governments to make proposals towards a clearer legal definition of mercenaries;"

and the remaining paragraphs were renumbered accordingly.

8. At the same meeting, Egypt, Ethiopia, Guinea, India, Iraq, Mali, the Niger, the Sudan and Uganda joined in sponsoring the draft resolution as further orally revised.

9. Also at the same meeting, the representative of New Zealand made a statement (see A/C.3/52/SR.37).

10. At the 37th meeting, the Committee adopted draft resolution A/C.3/52/L.33, as further orally revised, by a recorded vote of 91 to 16, with 41 abstentions (see para. 22, draft resolution I). The voting was as follows:[1]

In favour: Afghanistan, Algeria, Angola, Antigua and Barbuda, Azerbaijan, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Burkina Faso, Cameroon, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Israel, Jamaica, Jordan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Namibia, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, Singapore, South Africa, Sri Lanka, Sudan, Suriname, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Zimbabwe.

Against: Austria, Belgium, Canada, Denmark, Finland, Germany, Hungary, Iceland, Japan, Luxembourg, Netherlands, Norway, Sweden, the former Yugoslavia Republic of Macedonia,[2] United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Albania, Andorra, Argentina, Armenia, Australia, Bahamas, Belarus, Bulgaria, Congo, Croatia, Cyprus, Czech Republic, Estonia, France, Georgia, Greece, Ireland, Italy, Kazakhstan, Latvia, Liechtenstein, Lithuania, Marshall Islands, Myanmar,

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[1] The delegation of Iraq subsequently indicated that, had it been present during the voting, it would have voted in favour.

[2] The delegation of the former Yugoslav Republic of Macedonia subsequently indicated that its vote should have been recorded as an abstention and not as being against.

Nepal, New Zealand, Papua New Guinea, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, Solomon Islands, Spain, Turkey, Turkmenistan, Ukraine.

11. After the adoption of the draft resolution, statements were made by the representatives of Australia and Cuba (see A/C.3/52/SR.37).

B. Draft resolution A/C.3/52/L.34

12. At the 35th meeting, on 13 November, the representative of Pakistan, on behalf of Albania, Azerbaijan, Bahrain, Bosnia and Herzegovina, Brunei Darussalam, Chile, Costa Rica, Djibouti, Egypt, El Salvador, Iran (Islamic Republic of), Jordan, Kuwait, the Libyan Arab Jamahiriya, Malaysia, Mauritania, Morocco, Oman, Pakistan, Papua New Guinea, Qatar, Saudi Arabia, Singapore, Thailand, Togo and the United Arab Emirates, introduced a draft resolution entitled "Universal realization of the right of peoples to self-determination" (A/C.3/52/L.34).

13. At the 37th meeting, on 14 November, Iraq, Mali and the Congo joined in sponsoring the draft resolution.

14. Also at the 37th meeting, the Committee adopted draft resolution A/C.3/52/L.34 without a vote (see para. 22, draft resolution II).

15. After the adoption of the draft resolution, a statement was made by the representative of Pakistan (see A/C.3/52/SR.37).

C. Draft resolution A/C.3/52/L.41

16. At the 35th meeting, on 13 November, the representative of Egypt, on behalf of Afghanistan, Algeria, Andorra, Austria, Bahrain, Bangladesh, Belgium, Brazil, Brunei Darussalam, Chile, Colombia, Costa Rica, Cuba, Cyprus, Denmark, Djibouti, Egypt, Finland, France, Germany, Greece, Guinea, Guyana, Indonesia, Ireland, Italy, Japan, Jordan, Kuwait, the Lao People's Democratic Republic, Lesotho, Liechtenstein, Luxembourg, Malaysia, Mali, Malta, Mauritania, Monaco, Morocco, Mozambique, Namibia, the Netherlands, the Niger, Nigeria, Oman, Pakistan, Portugal, Qatar, San Marino, Saudi Arabia, Senegal, Sierra Leone, South Africa, Spain, the Sudan, Sweden, Tunisia, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, Viet Nam and Yemen, introduced a draft resolution entitled "The right of the Palestinian people to self-determination" (A/C.3/52/L.41).

17. At the 43rd meeting, on 19 November, Angola and Guinea-Bissau joined in sponsoring the draft resolution.

18. At the same meeting, statements were made by the representatives of the United States of America and Israel (see A/C.3/52/SR.43).

19. Also at the same meeting, the Committee adopted draft resolution A/C.3/52/L.41 by a recorded vote of 141 to 2, with 7 abstentions (see para. 22, draft resolution III). The voting was as follows:[3]

In favour: Afghanistan, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Canada, Cape Verde, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, Eritrea, Estonia, Ethiopia, Finland, France, Germany, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Niger, Nigeria, Oman, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, Samoa, San Marino, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Venezuela, Viet Nam, Yemen, Zimbabwe.

Against: Israel, United States of America.

Abstaining: El Salvador, Fiji, Georgia, Marshall Islands, Micronesia (Federated States of), Norway, Uruguay.

20. After the draft resolution was adopted, statements were made by the representatives of the Syrian Arab Republic, Lebanon, the Islamic Republic of Iran and Norway (see A/C.3/52/SR.43).

21. A statement was also made by the Observer for Palestine (see A/C.3/52/SR.43).

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[3] The delegations of Albania and Austria subsequently indicated that, had they been present during the voting, they would have voted in favour.

III. RECOMMENDATIONS OF THE THIRD COMMITTEE

22. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination

The General Assembly,

Recalling its resolutions 49/150 of 23 December 1994, 50/138 of 21 December 1995 and 51/83 of 12 December 1996,

Recalling also all of its relevant resolutions in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions of the Security Council, the Economic and Social Council and the Organization of African Unity,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, territorial integrity of States, the non-use of force or threat of use of force in international relations and self-determination of peoples,

Alarmed and concerned about the danger which the activities of mercenaries constitute to peace and security in developing countries, particularly in Africa and in small States, where democratically elected Governments have been overthrown by mercenaries or through mercenary international criminal activities,

Deeply concerned about the loss of life, the substantial damage to property and the negative effects on the polity and economies of affected countries resulting from mercenary aggression and criminal activities,

Convinced that it is necessary for Member States to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries,[4] adopted by the General Assembly in 1989, and to develop and maintain international cooperation among States for the prevention, prosecution and punishment of mercenary activities,

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[4] Resolution 44/34, annex.

Further convinced that, notwithstanding the way in which mercenaries or mercenary-related activities are used or the form they take to acquire some semblance of legitimacy, they are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples,

1. Takes note of the report of the Special Rapporteur of the Commission on Human Rights on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination[5] concerning the use of mercenaries and mercenary-related activities to topple sovereign Governments and to violate the human rights of peoples and impede the exercise of self-determination despite its resolution 51/83;

2. Reaffirms that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. Urges all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take appropriate legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to destabilize or overthrow the Government or threaten the territorial integrity and political unity of sovereign States or to promote secession or fight the national liberation movements struggling against colonial or other forms of alien domination or occupation;

4. Calls upon all States that have not yet done so to consider taking the necessary action to sign or to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

5. Urges all States to cooperate fully with the Special Rapporteur in the fulfilment of his mandate;

6. Requests the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of mercenary activities on the right to self-determination and, when requested and where necessary, to render advisory services to States that are affected by the activities of mercenaries;

7. Further requests the Secretary-General to invite Governments to make proposals towards a clearer legal definition of mercenaries;

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[5] A/52/495, annex.

8. Requests the Special Rapporteur to report, with specific recommendations, his findings on the use of mercenaries to undermine the right of peoples to self-determination to the General Assembly at its fifty-third session;

9. Decides to consider at its fifty-third session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the agenda item entitled "Rights of peoples to self-determination".

DRAFT RESOLUTION II

Universal realization of the right of peoples to self-determination

The General Assembly,

Reaffirming the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights,[6] as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960,

Welcoming the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

Deeply concerned at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of an increasing number of sovereign peoples and nations,

Expressing grave concern that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

Recalling the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military intervention, aggression and occupation, adopted by the Commission on

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[6] Resolution 2200 A (XXI), annex.

Human Rights at its thirty-sixth,[7] thirty-seventh,[8] thirty-eighth,[9] thirty-ninth,[10] fortieth,[11] forty-first,[12] forty-second,[13] forty-third,[14] forty-fourth,[15] forty-fifth,[16] forty-sixth,[17] forty-seventh,[18] forty-eighth,[19] forty-ninth,[20] fiftieth,[21] fifty-first,[22] fifty-second[23] and fifty-third[24] sessions,

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[7] See Official Records of the Economic and Social Council, 1980, Supplement No. 3 and corrigendum (E/1980/13 and Corr.1), chap. XXVI, sect. A.

[8] Ibid., 1981, Supplement No. 5 and corrigendum (E/1981/25 and Corr.1), chap. XXVIII, sect. A.

[9] Ibid., 1982, Supplement No. 2 and corrigendum (E/1982/12 and Corr.1), chap. XXVI, sect. A.

[10] Ibid., 1983, Supplement No. 3 and corrigendum (E/1983/13 and Corr.1), chap. XXVII, sect. A.

[11] Ibid., 1984, Supplement No. 4 and corrigendum (E/1984/14 and Corr.1), chap. II, sect. A.

[12] Ibid., 1985, Supplement No. 2 (E/1985/22), chap. II, sect. A.

[13] Ibid., 1986, Supplement No. 2 (E/1986/22), chap. II, sect. A.

[14] Ibid., 1987, Supplement No. 5 and corrigenda (E/1987/18 and Corr.1 and 2), chap. II, sect. A.

[15] Ibid., 1988, Supplement No. 2 and corrigendum (E/1988/12 and Corr.1), chap. II, sect. A.

[16] Ibid., 1989, Supplement No. 2 (E/1989/20), chap. II, sect. A.

[17] Ibid., 1990, Supplement No. 2 and corrigendum (E/1990/22 and Corr.1), chap. II, sect. A.

[18] Ibid., 1991, Supplement No. 2 (E/1991/22), chap. II, sect. A.

[19] Ibid., 1992, Supplement No. 2 (E/1992/22), chap. II, sect. A.

[20] Ibid., 1993, Supplement No. 3 (E/1993/23), chap. II, sect. A.

[21] Ibid., 1994, Supplement No. 4 and corrigendum (E/1994/24 and Corr.1), chap. II, sect. A.

[22] Ibid., 1995, Supplement No. 3 and corrigenda (E/1995/23 and Corr.1 and 2), chap. II, sect. A.

[23] Ibid., 1996, Supplement No. 3 (E/1996/23), chap. II, sect. A.

[24] Ibid., 1997, Supplement No. 3 (E/1997/23), chap. II, sect. A.

Reaffirming its resolutions 35/35 B of 14 November 1980, 36/10 of 28 October 1981, 37/42 of 3 December 1982, 38/16 of 22 November 1983, 39/18 of 23 November 1984, 40/24 of 29 November 1985, 41/100 of 4 December 1986, 42/94 of 7 December 1987, 43/105 of 8 December 1988, 44/80 of 8 December 1989, 45/131 of 14 December 1990, 46/88 of 16 December 1991, 47/83 of 16 December 1992, 48/93 of 20 December 1993, 49/148 of 23 December 1994, 50/139 of 21 December 1995 and 51/84 of 12 December 1996,

Taking note of the report of the Secretary-General on the right of peoples to self-determination,[25]

1. Reaffirms that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

2. Declares its firm opposition to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. Calls upon those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, particularly the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned;

4. Deplores the plight of the millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts, and reaffirms their right to return to their homes voluntarily in safety and honour;

5. Requests the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. Requests the Secretary-General to report on this question to the General Assembly at its fifty-third session under the item entitled "Right of peoples to self-determination".

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[25] A/52/485.

DRAFT RESOLUTION III

The right of the Palestinian people to self-determination

The General Assembly,

Aware that the development of friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, is among the purposes and principles of the United Nations, as defined in its Charter,

Recalling the International Covenants on Human Rights,[26] the Universal Declaration of Human Rights,[27] the Declaration on the Granting of Independence to Colonial Countries and Peoples[28] and the Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights on 25 June 1993,[29]

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[30]

Expressing deep concern over the deterioration of the Middle East peace process, including the lack of implementation of the agreements signed between the Palestine Liberation Organization and the Government of Israel,

Affirming the right of all States in the region to live in peace within secure and internationally recognized borders,

1. Reaffirms the right of the Palestinian people to self-determination;

2. Expresses the hope that the Palestinian people will soon be exercising their right to self-determination in the current peace process;

3. Urges all States, and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in their quest for self-determination.

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[26] Resolution 2200 A (XXI), annex.

[27] Resolution 217 A (III).

[28] Resolution 1514 (XV).

[29] A/CONF.157/24 (Part I), chap. III.

[30] Resolution 50/6.